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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

ABDUL JLELATI, Plaintiff and Appellant, v. CITY OF HESPERIA, Defendant and Respondent.	E062676 (Super.Ct.No. CIVVS1203517) OPINION

APPEAL from the Superior Court of San Bernardino County. Michael A. Sachs, Judge. Affirmed.

Abdul Jlelati, Plaintiff and Appellant in pro. per.

Bordin Martorell and Joshua D. Bordin-Wosk; Everett L. Skillman for Defendant and Respondent.

Abdul Jlelati sued the City of Hesperia (City) for damages arising out of a car accident. The trial court granted the City's motion for judgment on the pleadings. Jlelati filed a motion for reconsideration, which the trial court denied.

Jlelati appeals. He contends that his motion for reconsideration should have been granted based on new evidence. We will hold that he failed to show the existence of any new evidence. Accordingly, we will affirm.

I

FACTUAL AND PROCEDURAL BACKGROUND

In 2012, Jlelati filed this action against the City. (A second named defendant later settled with Jlelati and was dismissed.) The complaint has not been included in the appellate record. It appears, however, that in July 2011, Jlelati was involved in a car accident at a certain intersection in Hesperia. He claims that the City is liable for the accident on a theory of a dangerous condition of public property.

In July 2014, the City filed a motion for judgment on the pleadings. Again, the motion has not been included in the appellate record. However, Jlelati did not file an opposition to the motion.

On August 4, 2014, the trial court granted the motion for judgment on the pleadings. The clerk's minute order stated: "Alleged dangerous condition not a factor in harm to plaintiff. Burden of proof/dangerous condition element not met. . . . Counsel for City of Hesperia to prepare . . . judgment."

On or about August 5, 2014, the City's counsel submitted a proposed formal order. On August 7, 2014, the trial court signed and entered the order. It stated: "[T]he City of Hesperia's motion for judgment on the pleadings was granted. As a result, the court entered judgment in the favor of the City of Hesperia." (Capitalization altered.)

Jlelati filed a motion for reconsideration on the ground that "the City of Hesperia was at fault [in] my case . . . ." In support of the motion, he submitted the declaration of an expert witness, which stated, among other things, that the striping at the intersection had been incomplete and that this created a dangerous condition. Jlelati had filed the same declaration nine months earlier in opposition to a then-pending motion for summary judgment. Jlelati also submitted various police reports. However, these were not authenticated.

The trial court denied the motion for reconsideration on the ground that Jlelati had not shown any new facts or law.

II

APPEALABILITY

The City asserts that there is no appealable judgment, although it allows that under California Rules of Court, rule 8.104(d) (rule 8.104(d)), we have discretion to treat the minute order of August 4, 2014 as appealable.

"A judgment is the final determination of the rights of the parties [citation] ""when it terminates the litigation between the parties on the merits of the case and leaves nothing to be done but to enforce by execution what has been determined."" " [Citations.] '"It is not the form of the decree but the substance and effect of the adjudication which is determinative. As a general test, which must be adapted to the particular circumstances of the individual case, it may be said that *where no issue is left for future consideration except the fact of compliance or noncompliance with the terms of*

the first decree, that decree is final, but where anything further in the nature of judicial action on the part of the court is essential to a final determination of the rights of the parties, the decree is interlocutory."' [Citation.]" (*Dana Point Safe Harbor Collective v. Superior Court* (2010) 51 Cal.4th 1, 5.)

It seems plain to us that the formal order of August 7, 2014 is, in substance, a judgment. On August 4, 2014, the trial court directed counsel for the City to prepare a judgment. Counsel for the City duly submitted the proposed formal order to the trial court, and on August 7, 2014, the trial court signed it. The formal order stated, that, after granting the motion for judgment on the pleadings, "the court entered judgment in the favor of the City of Hesperia." (Capitalization altered.) Thus, evidently neither the City nor the trial court contemplated the filing of any subsequent judgment.

Admittedly, the order does not contain any language such as "judgment is hereby entered." That is consistent with its recital — albeit inaccurate — that a judgment had *already* been entered. However, this is merely a clerical error and thus subject to correction by amendment at any time. (*Rochin v. Pat Johnson Manufacturing Co.* (1998) 67 Cal.App.4th 1228, 1238.)

The City characterizes the formal order as a mere "notice of ruling." But not so. A notice of ruling would have been signed by the City's counsel; the formal order was signed by the trial court.

We therefore conclude that this appeal is properly taken from the formal order of August 7, 2014.

III

THE EXPERT'S DECLARATION WAS NOT NEW EVIDENCE

Jlelati contends that the expert's declaration constituted newly discovered evidence, which the City had "purposely withheld" from him.

A motion for reconsideration must be "based upon new or different facts, circumstances, or law . . . ." (Code Civ. Proc., § 1008, subd. (a).) "'To merit reconsideration, a party must give a satisfactory reason why it was unable to present its "new" evidence at the original hearing.' [Citation.]" (*McPherson v. City of Manhattan Beach* (2000) 78 Cal.App.4th 1252, 1265.) Here, Jlelati's motion for reconsideration did not explain how he had obtained the expert's declaration. Hence, there was no evidence that it was newly discovered. A fortiori, there was no evidence that the City had withheld it.

In fact, the face page of the declaration showed that it had been filed by Jlelati's own attorneys nine months earlier, in opposition to a motion for summary judgment. Thus, the declaration itself affirmatively demonstrated that it was not newly discovered.

Jlelati does not appear to contend that the police reports constituted new evidence. In any event, once again, there was no evidence that the police reports were newly discovered or that the City had withheld them. Indeed, they were wholly unauthenticated. (See Evid. Code, § 1401, subd. (a).) The trial court could therefore disregard them.

Finally, we note, again, that the order of August 7, 2014 was a judgment. (See part II, *ante*.) "After entry of judgment, the superior court did not have jurisdiction to entertain or decide a motion for reconsideration. [Citations.]" (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 859, fn. 29.) For this reason, too, the trial court properly denied the motion.

IV

DISPOSITION

The judgment is affirmed. In the interests of justice, the parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 8.278(a)(5).)

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RAMIREZ
P. J.

We concur:

McKINSTER
J.

MILLER
J.